



Celia Nogales
Director - Federal Relations

December 7, 1998

EX PARTE OR LATE FILED

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Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 12th Street, SW
TW-A235-Lobby
Washington, DC 20554

DEC - 7 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Re: **Ex Parte Statement**
CC Docket 96-115

Dear Ms. Salas:

On Friday, December 4, 1998, a meeting was held between the FCC and members of industry. Representing the FCC were Carol Matthey, Chief, Policy and Program Planning Division, Linda Kinney, Bill Agee, Anthony Mastando, Peter Wolfe, and Cecilia Stephens. Representing industry were Celia Nogales, Michael Pabian, and Tom Ryan, Ameritech; Kathy Rehmer and Todd Silbergeld, SBC; Eldridge Stafford, US West; Ben Almond, Bert Hoganson and Cynthia Ford, Bell South; Joe LaPorte and Joe Molieri, Bell Atlantic. The purpose of the meeting was to provide the FCC staff with an historical briefing on customer proprietary network information safeguards and to offer information on possible alternatives to the existing rules.

Sincerely,

A handwritten signature in cursive script that reads "Celia Nogales".

Attachment

cc: C. Matthey
L. Kinney
B. Agee
P. Wolfe
C. Stephens
A. Mastando

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CPNI COALITION

Tutorial & Background

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Overview

- Historical Perspective of CPNI - BOCs & Computer Inquiry II-related rules
- Highlights of Section 222 & FCC's Orders
- CPNI System Requirements
 - Coalition concerns
 - Coalition Alternative
 - Response to GTE Plan
 - Coalition Plan
- Further Notice Issues

Historical Perspective: BOCs & CI-II-related CPNI

- BOC CPNI requirements adopted for CPE and enhanced services subsidiary in 1984
- Separate sub reqt eliminated in 1987 for CPE
 - CPNI use permitted with opt-out notice to multiline business customers
- CI-III eliminated separate sub reqt for enhanced services
 - CPNI requirements same as CPE except affirmative approval needed for customers with over 20 lines
 - There was a specific FCC finding that approval would not be difficult to secure

Highlights of Section 222 & FCC Order

Total Service Approach

- FCC adopts “Total Service Approach”
 - Three baskets of services: Local Exchange, Long Distance and Wireless
- Allows collapse of baskets upon customer subscription to reflect total carrier relationship with customer

Highlights of Section 222 & FCC Order

Total Service Approach

- FCC concludes that CPE & information services are not in ANY basket
 - except carrier can use basket service CPNI to market future CPE if carrier has previously sold a package of basket service & CPE
- Section 222(c)(1)(B) explicitly allows use of CPNI for services necessary to, or used in, the provision of such telecommunications services. FCC took a flexible view of word “necessary” in Section 251(c)(6) and should take the same flexible view here

Highlights of Section 222 & FCC Orders *Winbacks*

- FCC held that 222(d)(1) does not permit the former (or soon to be former) carrier to use the CPNI of its former customer for retention purposes
- Industry consensus that it is inconsistent with statute to prohibit use of CPNI for retention
- Use of CPNI for retention purposes is pro-competitive - benefits customer - no violation of privacy expectations

Highlights of Section 222 & FCC Order

Customer Approval & Notification

- FCC found that approval meant written, oral or electronic affirmative consent obtained from customer before CPNI could be used outside the total service approach
- Shortened process for approval for duration of inbound calls is expressly allowed under 222(d)(3)
- FCC rules require 9-point notification (may be written or oral) in conjunction with a carrier request for **permanent** approval

Highlights of Section 222 & FCC Order *Aggregate CPNI*

- LEC requirement to make aggregate CPNI available to others if it uses that information to market outside the customer/carrier relationship or customer-approved use of CPNI

Highlights of Section 222 & FCC Order

Section 222 & Section 272

- FCC Order allows BOCs to share CPNI with LD affiliate pursuant to the provisions of Section 222, rather than the restrictions of Section 272(c)(1)
- Balances customer privacy with competitive concerns

CPNI Safeguards

Overview

- Access restrictions not adopted because of costs
- Relies on Use Restrictions & Personnel Training
- Supervisory Review Process
- Officer Certification
- CPNI system requirements
 - First few lines of first screen must have electronic flag indicating subscription level & approval status
 - Electronic Audit Requirement
 - tracks access to customer accounts
 - when record is opened, by whom and purpose
 - retained for at least a year

CPNI System Requirements

Coalition Concerns

- Costs of current regulations outweigh any potential incremental benefit
- Y2K constraints
- Less costly alternatives would meet spirit of FCC goals
 - ensure compliance
 - method of verification should a dispute occur

CPNI System Requirements

Costs

- Based on the extensive record, the enormous costs of the electronic flagging & tracking (system development costs and data processing & storage), do not justify potential incremental benefit
- System Development & Implementation Cost Ranges:
 - Small companies could spend up to \$100/line
 - Large company costs could exceed \$100-\$200M/company
- Data Storage Costs Estimates: MCI estimates \$1B for its systems alone
- Access restrictions did not pass cost/benefit analysis (see FCC Order @ FN 687 - \$100M)

CPNI System Requirements

Y2K Constraints

- All US companies have Y2K compliance as highest priority
- Cannot divert precious resources to implement CPNI safeguards during the Y2K process (E911, NSEP, White House Communications)
- The implementation schedule for any safeguard requiring system changes must reflect not only the current Y2K compliance efforts but also the moratorium on all non-critical system changes (4Q99 - 2Q00)

CPNI System Requirements

Alternatives

- Given BOC experience with CPNI, carriers can establish effective CPNI compliance plans which meet the FCC's goals:
 - ensure compliance
 - method of verification should a dispute occur
- What BOCs do today, depending on the system, what information it contains and who accesses it:
 - limited access restrictions -gatekeepers
 - supervisory reviews -code of business conduct
 - training -flagging for some systems

CPNI System Requirements

Coalition Response to GTE Plan

- Agree with the Flexibility proposed by GTE
 - one size does not fit all regarding systems, employees and audit requirements
- Disagree with:
 - requirement for use of external auditors
 - the extent to which GTE's Plan requires electronic auditing, CI-III-type password protection, or access restrictions for certain systems
 - requirement for across-the-board flagging on all systems containing CPNI

CPNI System Requirements

Coalition Plan

- Investigate the possibility of industry consensus for less intrusive requirements
- Report back during January CPNI ex parte sessions

Further Notice Issues

- Customer Rights to restrict use of CPNI for marketing within total service approach
- Protections for carrier information and enforcement mechanisms
- Foreign storage of and access to domestic CPNI